

**REMARKS:**

Claims 1-13, 46, and 47 are presented for examination, with claims 1-13 having been amended hereby and new claims 46 and 47 having been added.

Of note, it is respectfully submitted that the pending claims, as amended, continue to recite subject matter directed to what the examiner had referred to as "Invention I" in the Restriction Requirement issued June 27, 2002 in the above-identified application.

More particularly, in that Restriction Requirement the examiner had indicated that "Invention I" was drawn to an invention classified in class 221, subclass 272. In this regard, Class 221 relates to "article dispensing"; subclass 208 (which is an outdent of subclass 268) relates to a "discharge assistant" ("article dispensers having means to affirmatively segregate, separate or move the articles from a supply source toward a point of egress"); subclass 268 (which is an outdent of subclass 272) relates to "reciprocating" ("devices in which the discharge assistant has a character of motion which is alternately forward and backward, to and fro, or in reverse directions in the same path"); and subclass 272 relates to a "relatively movable actuator" ("devices in which the motion of the discharge assistant is imparted by means having motion relative to the discharge assistant").

Thus, it is respectfully submitted that the pending claims, as amended, continue to recite subject matter to "Invention I", as classified by the examiner.

Reconsideration is respectfully requested of the rejection of claims 4-5 and 7-12 under 35 U.S.C. 112, second paragraph.

As suggested by the examiner, claim 4 has been amended hereby to recite that at least a portion of the lift apparatus is positioned within the cassette and a new dependent claim (claim 46) has been added with the narrower recital that the lift apparatus is situated substantially entirely within the cassette. Of note, new claim 47 has been added to track a similar amendment to claim 9.

In addition, each of claims 8, 9, 11, and 12 has been amended to more clearly provide antecedent basis for the elements noted by the examiner.

Therefore, it is respectfully submitted that the rejection of claims 4-5 and 7-12 under 35 U.S.C. 112, second paragraph, has been overcome.

Reconsideration is respectfully requested of the rejection of claims 1 and 13 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,911,344 ("Kahler").

Kahler relates to a strip dispenser box. More particularly, Kahler relates to a disposable strip dispenser for dispensing a single testing strip from a stack of testing strips. The dispenser is constructed with a housing and integrally formed magazine to hold a stack of testing strips. A cap assembly with a strip feeder mechanism is mounted to the housing to form a water proof chamber. The cap assembly is locked to the housing with a rib and channel locking assembly with the body of the cap assembly defining a slot and slide bar assembly slideably mounted in the slot. The slide bar assembly comprises a strip guide bar with a finger grip mount extending from the guide bar through the slot with the bottom of the guide bar engaging the topmost strip on a spring biased stack of strips allowing a single strip to be dispensed from the housing through an aperture defined in the cap assembly while maintaining the remaining strips of the stack of testing strips in a moisture free environment.

In this regard, the examiner asserts in paragraph 6 of the above-identified Office Action that Kahler discloses a number of elements recited by the claims.

However, in order to expedite prosecution of the present application (and without acknowledging that the elements of the claims are, in fact, disclosed by Kahler as asserted by the examiner) it is respectfully submitted that this reference fails to show or even suggest the specific test strip dispensing feature now recited by the amended claims.

More particularly, it is respectfully noted that what is referred to by the examiner in this reference as "actuator 80" is a sliding-type mechanism. In this regard, Kahler fails to show or even suggest the push button configuration of the present invention, wherein when the push button mechanism is pushed, a moveable mechanism drives a moveable body to a first position to displace a test strip partially out of a container and when the push button mechanism is pushed again, the moveable mechanism drives the moveable body to a second position to displace the test strip substantially entirely out of the container.

Thus, there being no showing nor suggestion of such a configuration in Kahler, it is respectfully submitted that the invention recited in claim 1 is patentably distinct over Kahler for at least this reason.

Further, it is respectfully noted that claim 13 depends from claims 1 and 2. Thus, it is respectfully submitted that claim 13 is patentably distinct over Kahler for at least the same reason

as claim 1 (in addition, since claim 2 was not rejected as being disclosed by Kahler, it would appear that claim 13 is also patentably distinct over Kahler based on the elements recited by claim 2).

Therefore, it is respectfully submitted that the rejection of claims 1 and 13 under 35 U.S.C. 102(b) as being anticipated by Kahler has been overcome.

Reconsideration is respectfully requested of the rejection of claims 1-2, 6, and 13 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,505,308 ("Eikmeier et al.").

Eikmeier et al. relates to a system for the storage of test elements. More particularly, Eikmeier et al. relates to an invention within the field of packaging and storing of test elements that are usually sensitive towards atmospheric humidity or water vapor. The invention concerns a system for the storage of test elements for the analysis of sample liquids in which two or more test elements are present in a storage container which can be sealed water-vapor tight and contains a desiccant inside.

In this regard, the examiner asserts in paragraph 7 of the above-identified Office Action that Eikmeier et al. discloses a number of elements recited by the claims.

However, in order to expedite prosecution of the present application (and without acknowledging that the elements of the claims are, in fact, disclosed by Eikmeier et al. as asserted by the examiner) it is respectfully submitted that this reference fails to show or even suggest the specific test strip dispensing feature now recited by the amended claims.

More particularly, it is respectfully noted that what is referred to by the examiner in this reference as "actuator 4" is a sliding-type mechanism (and, in fact, it appears that this sliding-type mechanism opens the flap 5 and does not dispense the test elements – see col. 3 lines 53-55 and col. 4, lines 7-11). In this regard, Eikmeier et al. fails to show or even suggest the push button configuration of the present invention, wherein when the push button mechanism is pushed, a moveable mechanism drives a moveable body to a first position to displace a test strip partially out of a container and when the push button mechanism is pushed again, the moveable mechanism drives the moveable body to a second position to displace the test strip substantially entirely out of the container.

Thus, there being no showing nor suggestion of such a configuration in Eikmeier et al., it is respectfully submitted that the invention recited in claim 1 is patentably distinct over Eikmeier et al. for at least this reason.

Further, it is respectfully noted that claims 2, 6, and 13 depend (either directly or indirectly) from claim 1. Thus, it is respectfully submitted that claims 2, 6, and 13 are patentably distinct over Eikmeier et al. for at least the same reason as claim 1.

Therefore, it is respectfully submitted that the rejection of claims 1-2, 6, and 13 under 35 U.S.C. 102(b) as being anticipated by Eikmeier et al. has been overcome.

Reconsideration is respectfully requested of the rejection of claims 1, 2, and 10-11 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,353,956 ("Wilson").

Wilson relates to a chewing gum dispenser. More particularly, Wilson relates to a dispenser of chewing gum in stick form designed to hold a standard pack of gum sticks, including the outside wrapper either with the end removed or separate sticks in their individual wrappers, perhaps taken from a larger package. It has an internal sliding ejector, with an attached, thumb-operated actuator protruding through a slot in the side of the dispenser body. In operation of this dispenser, it is held in one hand while the thumb flips open the hinged cap and subsequently moves the actuator and ejector forward, exposing the end of the gum and making it available to grasp with the other hand or by another person. The remaining gum is then retracted by moving the actuator back with the thumb, after which the same thumb may flip the cover closed.

In this regard, the examiner asserts in paragraph 8 of the above-identified Office Action that Wilson discloses a number of elements recited by the claims.

However, in order to expedite prosecution of the present application (and without acknowledging that the elements of the claims are, in fact, disclosed by Wilson as asserted by the examiner) it is respectfully submitted that this reference fails to show or even suggest the specific test strip dispensing feature now recited by the amended claims.

More particularly, it is respectfully noted that what is referred to by the examiner in this reference as an actuator is a sliding-type mechanism (see col. 2, lines 65-68: "Then the thumb slides the actuator 3 forward in the slot 8 in the dispenser body 1 causing the ejector 4 to push the gum forward, exposing all the pieces in their two wrappers 6 and the outer wrapper 7..."). In this regard, Wilson fails to show or even suggest the push button configuration of the present invention, wherein when the push button mechanism is pushed, a moveable mechanism drives a moveable body to a first position to displace a test strip partially out of a container and when the push button mechanism is pushed again, the moveable mechanism drives the moveable body to a

second position to displace the test strip substantially entirely out of the container.

Thus, there being no showing nor suggestion of such a configuration in Wilson, it is respectfully submitted that the invention recited in claim 1 is patentably distinct over Wilson for at least this reason.

Further, it is respectfully noted that claims 2 and 10-11 depend (either directly or indirectly) from claim 1. Thus, it is respectfully submitted that claims 2 and 10-11 are patentably distinct over Wilson for at least the same reason as claim 1 (in addition, since claims 9 and 3 were not rejected as being disclosed by Wilson, it would appear that claims 10 and 11 are also patentably distinct over Wilson based on the elements recited by claims 3 and 9).

Therefore, it is respectfully submitted that the rejection of claims 1, 2, and 10-11 under 35 U.S.C. 102(b) as being anticipated by Wilson has been overcome.

Reconsideration is respectfully requested of the rejection of claims 1-5 and 11-13 under 35 U.S.C. 103(a) as being unpatentable over Kahler in view of U.S. Patent No. 5,271,522 ("Ko et al.").

As discussed above, Kahler has been distinguished from the present invention due to at least Kahler's failure to show or even suggest the specific test strip dispensing feature now recited by the amended claims.

In this regard, it is respectfully submitted that the disclosure of Ko et al. (which relates to an individual bandage dispenser) does nothing to cure this deficiency. More particularly, it is respectfully submitted that Ko et al. likewise fails to show or even suggest the push button configuration of the present invention, wherein when the push button mechanism is pushed, a moveable mechanism drives a moveable body to a first position to displace a test strip partially out of a container and when the push button mechanism is pushed again, the moveable mechanism drives the moveable body to a second position to displace the test strip substantially entirely out of the container.

Thus, it is respectfully submitted that amended claim 1 is patentably distinct over Kahler in combination with Ko et al.

Further, since each of claims 2-5 and 11-13 depends (either directly or indirectly) from amended claim 1, it is respectfully submitted that these claims are patentably distinct over Kahler in combination with Ko et al. for at least the same reason as amended claim 1.

Therefore, it is respectfully submitted that the rejection of claims 1-5 and 11-13 under 35

U.S.C. 103(a) as being unpatentable over Kahler in view of Ko et al. has been overcome.

Reconsideration is respectfully requested of the rejection of claims 1-2, 4-8, and 11-13 under 35 U.S.C. 103(a) as being unpatentable over Eikmeier et al. in view of U.S. Patent No. 6,176,119 ("Kintzig").

As discussed above, Eikmeier et al. has been distinguished from the present invention due to at least Eikmeier et al.'s failure to show or even suggest the specific test strip dispensing feature now recited by the amended claims.

In this regard, it is respectfully submitted that the disclosure of Kintzig (which relates to an analytical system for sample liquids) does nothing to cure this deficiency. More particularly, it is respectfully submitted that Kintzig likewise fails to show or even suggest the push button configuration of the present invention, wherein when the push button mechanism is pushed, a moveable mechanism drives a moveable body to a first position to displace a test strip partially out of a container and when the push button mechanism is pushed again, the moveable mechanism drives the moveable body to a second position to displace the test strip substantially entirely out of the container.

Thus, it is respectfully submitted that amended claim 1 is patentably distinct over Eikmeier et al. in combination with Kintzig.

Further, since each of claims 2, 4-8, and 11-13 depends (either directly or indirectly) from amended claim 1, it is respectfully submitted that these claims are patentably distinct over Eikmeier et al. in combination with Kintzig for at least the same reason as amended claim 1.

Therefore, it is respectfully submitted that the rejection of claims 1-2, 4-8, and 11-13 under 35 U.S.C. 103(a) as being unpatentable over Eikmeier et al. in view of Kintzig has been overcome.

Reconsideration is respectfully requested of the rejection of claims 1-2, 6, and 11-13 under 35 U.S.C. 103(a) as being unpatentable over Eikmeier et al. in view of U.S. Patent No. 5,788,064 ("Sacherer et al.").

As discussed above, Eikmeier et al. has been distinguished from the present invention due to at least Eikmeier et al.'s failure to show or even suggest the specific test strip dispensing feature now recited by the amended claims.

In this regard, it is respectfully submitted that the disclosure of Sacherer et al. (which relates to a storage container for test strips) does nothing to cure this deficiency. More

particularly, it is respectfully submitted that Sacherer et al. likewise fails to show or even suggest the push button configuration of the present invention, wherein when the push button mechanism is pushed, a moveable mechanism drives a moveable body to a first position to displace a test strip partially out of a container and when the push button mechanism is pushed again, the moveable mechanism drives the moveable body to a second position to displace the test strip substantially entirely out of the container.

Thus, it is respectfully submitted that amended claim 1 is patentably distinct over Eikmeier et al. in combination with Sacherer et al.

Further, since each of claims 2, 6, and 11-13 depends (either directly or indirectly) from amended claim 1, it is respectfully submitted that these claims are patentably distinct over Eikmeier et al. in combination with Sacherer et al. for at least the same reason as amended claim 1.

Therefore, it is respectfully submitted that the rejection of claims 1-2, 6, and 11-13 under 35 U.S.C. 103(a) as being unpatentable over Eikmeier et al. in view of Sacherer et al. has been overcome.

Reconsideration is respectfully requested of the rejection of claims 1-8 and 13 under 35 U.S.C. 103(a) as being unpatentable over Eikmeier et al. in view of U.S. Patent No. 4,512,952 ("Blanding et al.").

As discussed above, Eikmeier et al. has been distinguished from the present invention due to at least Eikmeier et al.'s failure to show or even suggest the specific test strip dispensing feature now recited by the amended claims.

In this regard, it is respectfully submitted that the disclosure of Blanding et al. (which relates to an apparatus for storing and dispensing analysis slides) does nothing to cure this deficiency. More particularly, it is respectfully submitted that Blanding et al. likewise fails to show or even suggest the push button configuration of the present invention, wherein when the push button mechanism is pushed, a moveable mechanism drives a moveable body to a first position to displace a test strip partially out of a container and when the push button mechanism is pushed again, the moveable mechanism drives the moveable body to a second position to displace the test strip substantially entirely out of the container.

Thus, it is respectfully submitted that amended claim 1 is patentably distinct over Eikmeier et al. in combination with Blanding et al.

Further, since each of claims 2-8 and 13 depends (either directly or indirectly) from amended claim 1, it is respectfully submitted that these claims are patentably distinct over Eikmeier et al. in combination with Blanding et al. for at least the same reason as amended claim 1.

Therefore, it is respectfully submitted that the rejection of claims 1-8 and 13 under 35 U.S.C. 103(a) as being unpatentable over Eikmeier et al. in view of Blanding et al. has been overcome.

Accordingly, it is respectfully submitted that each rejection raised by the examiner in the December 13, 2002 Office Action has been overcome and that the above-identified application is now in condition for allowance.

Finally, it is noted that this Amendment is fully supported by the originally filed application and thus, no new matter has been added. For this reason, the Amendment should be entered.

More particularly, support for the amendment to claim 1 regarding the moveable body and the actuator is found in claim 1, as filed; Figures 1, 2, 3A, 4, 6, and 6A; page 3, line 27 to page 4, line 3; page 6, lines 12-18; and throughout the specification.

Further, support for the editorial amendment to claim 2 is found in claims 1 and 2, as filed; Figures 1, 2, 3, 3A, 5, 6, and 6A; and throughout the specification.

Further still, support for the editorial amendment to claim 3 is found in claims 1-3, as filed; Figures 1, 2, 3, 3A, 5, 6, and 6A; and throughout the specification.

Further still, support for the editorial amendment to claim 4 is found in claims 1-4, as filed; Figures 1, 2, 3, 3A, 5, 6, and 6A; and throughout the specification.

Further still, support for the editorial amendment to claim 5 is found in claims 1-5, as filed; Figures 1, 2, 3, 3A, 5, 6, and 6A; and throughout the specification.

Further still, support for the editorial amendment to claim 6 is found in claims 1 and 6, as filed; Figures 1 and 2, as filed; and throughout the specification.

Further still, support for the editorial amendment to claim 7 is found in claims 1-4 and 7, as filed; Figures 1 and 2, as filed; and throughout the specification.

Further still, support for the editorial amendment to claim 8 is found in claims 1-5 and 8, as filed; Figures 1 and 2, as filed; and throughout the specification.

Further still, support for the editorial amendment to claim 9 is found in claims 1-3 and 9,

as filed; Figures 1, 2, 3, 3A, 5, 6, and 6A; and throughout the specification.

Further still, support for the editorial amendment to claim 10 is found in claims 1-3, 9 and 10, as filed; Figures 1, 2, 3, 3A, 5, 6, and 6A; and throughout the specification.

Further still, support for the editorial amendment to claim 11 is found in claims 1-3 and 11, as filed; Figures 1, 2, 3, 3A, 5, 6, 6A, 7, and 7A; and throughout the specification.

Further still, support for the editorial amendment to claim 12 is found in claims 1-3, 11, and 12, as filed; and throughout the specification.

Further still, support for the editorial amendment to claim 13 is found in claims 1, 2, and 13, as filed; and throughout the specification.

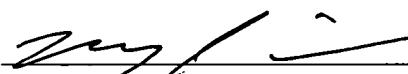
Further still, support for new claim 46 is found in claims 1-4, as filed; Figures 1, 2, 3, 3A, 5, 6, and 6A; and throughout the specification.

Further still, support for new claim 47 is found in claims 1-3 and 9, as filed; Figures 1, 2, 3, 3A, 5, 6, and 6A; and throughout the specification.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,  
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Dated: April 14, 2003

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